Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Alleviating Unnecessary Regulatory Burdens	)	GN Docket No. 25-133
	)	
	)	

COMMENTS OF AVIATION SPECTRUM RESOURCES, INC.

Aviation Spectrum Resources, Inc. ("ASRI"), hereby comments on the March 12, 2025, Public Notice in the above-referenced docket[1] in which the Commission invites comment on Commission regulations that that are unnecessary in light of current circumstances, and which may stand in the way of deployment and technological innovation in communications that serve the American people and economy.

ASRI focuses its comments on provisions of Section 87.263(a) of the Commission's Rules, 47 C.F.R. §87.263(a), and urges the Commission to eliminate an outmoded rule specifying a geographic restriction for the aeronautical VHF channel of 136.750 MHz, which limits the efficient and constructive use of the aeronautical VHF band by the aviation industry. That rule, by its own terms, limits use of this channel "in the Gulf of Mexico Region to serve domestic routes over the Gulf of Mexico and adjacent coastal areas" to entities licensed to use the service in the Gulf Region prior to January 1, 1994, and their successors and assigns.[2] In effect, the restriction creates a "no man's land" 150 miles wide, from 30 to 180 miles inland from the shore, along the entire Gulf coast where some VHF licenses essential to aviation cannot be used ("Unavailable Area").

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1 Public Notice, DA 25-219, GN Docket No. 25-133 (Mar. 12, 2025).
2 47 C.F.R. § 87.263(a)(5).

This restriction has since proven unnecessary and inefficient, magnified by the fact that there are no such remaining licensees apart from ASRI.[3] The result is depriving the broader aviation industry use of this much needed channel for *en route* communications services in the Unavailable Area, and also limiting the placement of suitable ground stations to enable VHF coverage at altitude in the Gulf Region. Because the restriction in Section 87.263(a) no longer serves a legitimate purpose consistent with the intent originally motivating the restriction, the Commission should delete it expeditiously. The requested rule change would benefit the public interest by making available a much-needed channel *for enroute* communications generally in the Unavailable Area, complementing the limited number of such channels available today.

I. ASRI's INTERESTS IN SUBMITTING THESE COMMENTS

ASRI is the communications company of the U.S. air transport industry and is owned by U.S. airlines and other airspace users. It is the principal licensee for U.S. aeronautical enroute service ("AES") frequencies[4] and the sponsor of the Aeronautical Frequency Committee ("AFC").[5] This enables ASRI to draw on expertise and opinions from across the U.S. aviation sector, promoting the safe and efficient operation of commercial aviation radio communications systems operating within the U.S. By coordinating with the AFC, ASRI also supports the safe operation of U.S. aviation in an international environment through participation with International Civil Aviation Organization ("ICAO") and the International Telecommunications Union Radiocommunications Sector ("ITU-R"). ASRI is vitally interested in maximizing the efficient use of AES frequencies throughout the entire United States.

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[3] As explained below, the one other qualifying licensee that was not ASRI stopped using the frequency and has turned to other spectrum alternatives to satisfy its requirements.

[4] 128.825-132.000 MHz and 136.500-136.975 MHz in the VHF Band.

[5] For participating organizations, see https://www.asri.aero/afc-membership/ .

II. INTRODUCTION AND BACKGROUND

The Commission adopted rules in 1990 for aviation stations in the 136-137 MHz band to conform its Rules with the outcomes for the band reached at the 1979 World Administrative Radio Conference, which these frequencies to the Aeronautical Mobile (R) Service on a primary basis.[6] In response to a request by the American Petroleum Institute ("API"), the Commission at the same time reserved eight frequencies, including 136.750 MHz, for special purpose enroute communications services, e.g., "helicopter flight following systems" within the Gulf Region through December 31, 1993.[7]

Since 1990, the Commission has removed the restrictions for seven of the eight frequencies, leaving only 136.750 MHz subject to the special purpose restriction. On reconsideration of the 1990 decision, the Commission in 1992 narrowed the number of aeronautical *en route* channels subject to the special purpose restriction to six.[8] Nine years later, the Commission proposed to delete the restriction for four of the six frequencies because only two of the channels had been licensed under the restriction.[9] The following year, the Commission adopted its proposal but also removed the restriction for a fifth channel, 136.825 MHz, which the NPRM did not initially propose to be removed, in large part because the license

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6 Amendment of Parts 2 and 87 of the Commission's Rules to permit the Aviation Services to use Frequencies in the 136-137 MHz Band, Report and Order, 5 FCC Rcd 3954 (rel. July 5, 1990).

7 *Id.* at 3957, ¶ 27.

8 Amendment of Parts 2 and 87 of Commission's Rules to Permit the Aviation Services to Use Frequencies in the 136-137 MHz Band, Memorandum Opinion & Order, GEN. Docket No. 89-295, 6 FCC Rcd 2291, 2292, ¶13 (1991).

9 Amendment of Parts 2 and 87 of the Commission's Rules to Accommodate Advanced Digital Communications in the 117.975-137 MHz Band and to Implement Flight Information Services in the 136-137 MHz Band, Notice of Proposed Rule Making, WT Docket No. 00-77, FCC 00-160, ¶ 19 (rel. May 15, 2000) *amended by* Errata (rel. June 5, 2000)("2000 136 MHz NPRM").

on that channel under the special purpose restriction had been issued in 1997, more than three years after the duration of the special purpose exemption had expired.[10] Since then, only 136.750 MHz of the original eight channels subject to the special purpose restriction, and made unavailable for general domestic *en route* communications, remained subject to the special purpose restriction in the Gulf of Mexico Region, as codified in sub-Sections 87.263(a)(1) and (a)(5) of the Commission's Rules. 47 C.F.R. §§ 87.263(a)(1) and (a)(5).

Currently, sub-Section 87.263(a)(5) provides that "[t]he frequency 136.750 MHz is available in the Gulf of Mexico Region to serve domestic routes over the Gulf of Mexico and adjacent coastal areas. Assignment of this frequency in the Gulf of Mexico Region shall be to licensees first licensed on this frequency in the Gulf of Mexico Region prior to January 1, 1994, their successors and assigns, and is not subject to the conditions in §87.261(c) and paragraph (a)(2) of this section."[11] Sub-Section 87.263(a)(1) reflects this restriction: "Frequencies in the 128.8125-132.125 MHz and 136.4875-137.00 MHz bands are available to serve domestic routes, except that the frequency 136.750 MHz is available only to aeronautical enroute stations located at least 288 kilometers (180 miles) from the Gulf of Mexico shoreline (outside the Gulf of Mexico region)." The result is a 150 mile-wide area, the Unavailable Area, in which the 136.750 MHz channel cannot be used by any aeronautical operators.

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[10] Amendment of Parts 2 and 87 of the Commission's Rules to Accommodate Advanced Digital Communications in the 117.975-137 MHz Band and to Implement Flight Information Services in the 136-137 MHz Band, Report and Order WT Docket No. 00-77, FCC 01-122, ¶ 21 (rel. Apr. 13, 2001) ("2001 136 MHz Order").

[11] 47 C.F.R. § 87.263(a)(5). Section 87.263(a)(5) provides that "[f]or the purpose of this paragraph, the Gulf of Mexico Region is defined as an area bounded on the east, north, and west by a line 288 km (180 miles) from the Gulf of Mexico shore line." The rule also stipulates that "[i]Inland stations must be located within forty-eight kilometers (30 miles) of the Gulf of Mexico shore line." *Id.*

III. RETENTION OF THE SPECIAL PURPOSE RESTRICTION FOR 136.750 MHz WOULD BE INEFFICIENT

In response to the *2000 136 MHz NPRM*, the predecessor of ASRI, Aeronautical Radio, Inc. ("ARINC"), and the Air Transport Association of America, Inc. ("ATA") did not object to the retention of the restriction for 136.750 MHz for one reason: the channel was *timely* licensed in the Gulf Region to Chevron USA, Inc. ("Chevron"), which was using it for helicopter flight following operations, as the restriction contemplated.[12] ARINC/ATA argued that the remaining five channels which had been subject to the restriction should be made available for general *en route* aeronautical communications both within and outside the Gulf Region, including the Unavailable Area. They also conceded that Chevron's existing operation in the Gulf Region on 136.825 MHz should be protected from harmful interference caused by later issued *en route* communications licenses only because it was issued earlier in time, not because of a continuation of the special purpose restriction. The Commission agreed on all counts in the *2001 136 MHz Order*.[13]

In the intervening two decades since the *2001 136 MHz Order*, the rationale for retaining the special purpose restriction for channel 136.750 MHz in 1991 has entirely dissipated. Chevron, the sole licensee in 2001 – apart from ASRI, which holds a license that predates 1994 – abandoned use of its 136.750 MHz frequency authorization for helicopter flight following operations and utilizes radio solutions in other channels to meet its needs.[14] Chevron now relies on service being provided through ASRI's licenses. Chevron did not assign the license to another user qualifying under the special purpose restriction. As explained in the attached letter,

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12 *See 2001 136 MHz Order* ¶¶ 20-21.

13 *Id.*

14 *See* Letter of Greg Kunkle, Counsel for Chevron USA, Inc., to Andrew C. Roy, ASRI, Director of Engineering (dated April 7, 2025) *appended hereto as* Appendix A.

Chevron has no objection to the deletion of the language in sub-Sections 87.263(a)(1) or 87.263(a)(5) that codified the special purpose restriction.

Chevron's operations twenty-five years ago was the only basis for retaining the restriction in 2001. Just as the Commission removed the restriction for five of the channels to which it applied in 2001 because there was no timely issued license, the Commission should remove the restriction for the last of the channels, 136.750 MHz, today for the same reason given that Chevron no longer is authorized on the channel and, instead, is receiving its service using ASRI licenses.

IV. DELETING THE GULF REGION RESTRICTION ON THE USE OF 136.750 MHZ WOULD PROMOTE VITAL AERONAUTICAL COMMUNICATIONS

While the fact that 136.750 MHz is no longer being used consistently with the special purpose restriction is reason enough for the Commission to modify the Rules to delete it, ASRI's request is much more than an administrative matter. Removal of the restriction will serve the public interest by facilitating greater and more efficient use of 136.750 MHz as part of the Data Comm program utilizing AES frequencies through licenses held by ASRI being implemented by the FAA in cooperation with the air transport industry.[15] The 136.750 MHz frequency has been chosen as a nationwide assignment for future Data Comm and airline datalink operations as part of an industry operated multi-frequency VHF datalink network.[16] However, the restriction

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[15] *See* https://www.faa.gov/air_traffic/technology/DataComm. The Federal Aviation Administration ("FAA") Data Comm program is implemented using existing commercial aviation industry frequencies, equipment, and network service provider infrastructure to deliver connectivity to aircraft in U.S. national airspace on behalf of the FAA, alongside other aviation industry operational control datalink traffic.

[16] Suitable channel selection for VHF datalink channels required accounting for multiple radio frequency planning considerations such as co-site interference, 2-tone and 3-tone third-order intermodulation products, cavity notice filter response, Canadian cross-border coordination agreements in the AES VHF bands, etc. As a result, 136.750 MHz was chosen for its optimal

continues to prevent 136.750 MHz from being utilized in the Unavailable Area, and also preventing the placement of suitable ground stations to enable VHF coverage at altitude in the Gulf Region.

Under Data Comm operations, both air traffic control communications and aeronautical operational control communications will be transmitted as data using aeronautical enroute stations licensed to ASRI and operated by Collins Aerospace, a subsidiary of RTX, and Société Internationale de Télécommunications Aéronautiques ("SITA"). The protocol employed will give priority to air traffic control messages and voice will remain available for exigent situations on the ATC networks operated by the FAA. Implementation of Data Comm is well underway and has already resulted in great improvements and increases in efficiency in aeronautical communications by preventing readback errors and providing ATC instructions that can be transferred under the pilot's direction to the aircraft flight computer.[17] Depriving the aviation industry of the general use of 136.750 MHz in the Gulf Region for general *en route* communications is both inefficient and needlessly hobbles the roll out of Data Comm in that area of the country.

ASRI holds a license on 136.750 MHz in the U.S. and Possessions assigned to it from ARINC that permits ASRI to operate in the Gulf Region. Under Section 87.263(a) of the Rules,

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location in the 136.500-136.975 MHz AES band, with almost no alternative channels available that would not compromise overall network capacity, performance, or require extensive replanning of the whole aviation band to a less efficient channel plan.

[17] According to L3Harris Corporation, the FAA's contractor for the Data Comm program, since the program's inception in 2016 to February 2025, the controller-to-pilot datalink made available by the Data Comm program had saved more than 6.5 million minutes of radio time, cleared more than 22.79 million flights, and prevented an estimated over 345,210 readback errors. Data Comm has been adopted by 23 U.S. air carriers, 106 non-U.S. air carriers, and over 5,000 business aviation operators. Currently, over 11,900 aircraft comprising some 75 aircraft types are equipped for Data Comm operations.

however, ASRI's ability to deploy in the areas surrounding the Gulf Region up to 180 miles inland from the Gulf shoreline is unnecessarily constrained in the Unavailable Area with no countervailing public interest benefits *and no private party is benefitted either*.[18] When the restrictions on the use of 136.750 MHz were first implemented, Chevron operated helicopters serving the Gulf and had also secured an enroute service license for 136.750 MHz, which is now expired and for which Chevron has no prospective interest given the service it receives from ASRI. Today, ASRI holds the only license for 136.750 MHz that permits operation in the Gulf Region. In order to afford greater flexibility and improved efficiencies in the location of stations for Data Comm, portions of Section 87.263 should be deleted as shown in the attached Appendix B. Such an amendment will both clean up the regulations by removing language harboring inefficient spectrum use and facilitate better use of the aeronautical enroute spectrum as aviation moves to more efficient operating systems such as Data Comm as implemented under the FAA's NextGen program.

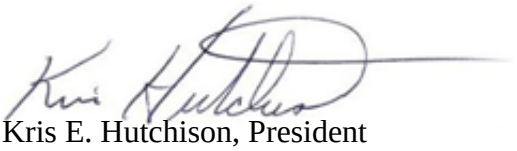
[18] The restriction in the Unavailable Area excludes major airports such as Houston, San Antonio, Austin, New Orleans, and effectively every airport in Florida.

V. CONCLUSION

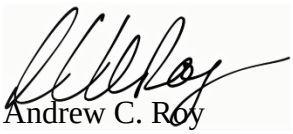
For the foregoing reasons, the Gulf Region restriction codified in sub-Sections 87.263(a)(1) and 87.263(a)(5) restriction should be deleted.

Respectfully Submitted,

AVIATION SPECTRUM RESOURCES, INC.



Kris E. Hutchison, President
Aviation Spectrum Resources, Inc



Andrew C. Roy
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April 11, 2025

Appendix A

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April 7, 2025

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Re: Aviation Spectrum Resources, Inc.
Request to Amend Section 87.263(a) of the FCC's Rules

Dear Mr. Roy:

On behalf of my client, Chevron USA, Inc. ("Chevron"), this is to confirm Chevron is no longer licensed by the Federal Communications Commission for any use of 136.750 MHz in the United States. Further, Chevron has confirmed it uses its extensive network of currently licensed frequencies, which do not include 136.750 MHz, for enroute communication within the Gulf of Mexico. Therefore, Chevron does not object to the deletion from sub-section 87.263(a)(1) of the Commission's Rules the phrase "except that the frequency 136.750 MHz is available only to aeronautical enroute stations located at least 288 kilometers (180 miles) from the Gulf of Mexico shoreline (outside the Gulf of Mexico region)." For the same reasons, Chevron also does not object to the deletion of sub-section 87.263(a)(5) in its entirety which concerns itself solely with the availability of frequency 136.750 MHz pursuant to the foregoing exception in sub-section 87.263(a)(1).

Please feel free to contact me with any questions.

Regards,

Greg Kunkle
Counsel to Chevron USA, Inc.

Appendix B

ASRI's Proposed Deletions in 47 C.F.R. § 87.263(a)

Code of Federal Regulations, Title 47: Telecommunication

PART 87—AVIATION SERVICES

Subpart I—Aeronautical Enroute Stations, Aeronautical Fixed Stations, and Aircraft Data Link Land Test Stations

§87.263 Frequencies.

(a) Domestic VHF service. (1) Frequencies in the 128.8125-132.125 MHz and 136.4875-137.00 MHz bands are available to serve domestic routes~~**, except that the For the purpose of this paragraph, the Gulf of Mexico Region is defined as an area bounded on the east, north, and west by a line 288 km (180 miles) from the Gulf of Mexico shore line. Inland stations must be located within forty-eight kilometers (30 miles) of the Gulf of Mexico shore line**~~. The frequencies 136.900 MHz, 136.925 MHz, 136.950 MHz and 136.975 MHz are available to serve domestic and international routes. Frequency assignments may be based on either 8.33 kHz or 25 kHz spacing. Use of these frequencies must be compatible with existing operations and must be in accordance with pertinent international treaties and agreements.

(2) A system or network of interconnected enroute stations may employ offset carrier techniques on the frequencies listed in paragraph (a)(1). The carrier frequencies of the individual transmitters must not be offset by more than ±8kHz.

(3) The frequencies 122.825 and 122.875 MHz are available for assignment to enroute stations which provide local area service to aircraft approaching or departing a particular airport. These frequencies will be assigned without regard to the restrictions contained in §87.261 (c) and (d). Only organizations operating aircraft with a maximum capacity of 56 passengers or 8,200 kg (18,000 lbs) cargo will be authorized use of these enroute frequencies.

(4) In Alaska, the frequencies 131.500, 131.600, 131.800 and 131.900 MHz may be assigned to aeronautical enroute stations without regard to the restrictions contained in §87.261 (c) and (d).

~~**(5) The frequency 136.750 MHz is available in the Gulf of Mexico Region to serve domestic routes over the Gulf of Mexico and adjacent coastal areas. Assignment of this frequency in the Gulf of Mexico Region shall be to licensees first licensed on this frequency in the Gulf of Mexico Region prior to January 1, 1994, their successors and assigns, and is not subject to the conditions in §87.261(c) and paragraph (a)(2) of this section. For the purpose of this paragraph, the Gulf of Mexico Region is defined as an area bounded on the east, north, and west by a line 288 km (180 miles) from the Gulf of Mexico shore line. Inland stations must be located within forty-eight kilometers (30 miles) of the Gulf of Mexico shore line.**~~

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